

IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
3:04-cr-250

**THIS MATTER** is before the Court upon motion of the defendant for a reduction of sentence based on the retroactive amendments to the United States Sentencing Guidelines relating to crack cocaine triggered by the Fair Sentencing Act of 2010 (Doc. No. 719) and the government's response (Doc. No. 731).

The Court previously reduced the defendant’s sentence based on 2007 retroactive amendments to the guidelines relating to crack cocaine offenses that resulted in a guideline range of 262-327 months.<sup>1</sup> (Doc. No. 609: Order at 2). The defendant now moves for a further reduction under the 2011 amendments, claiming he may eligible for relief. (Doc. No. 719). However, the career offender guideline results in the same range as the 2007 amendments, USSG §4B1.1(b), and was not affected by the 2011 amendments, USSG Supp. to Appx. C., Amend. 759 (2011). Accordingly, the defendant is not eligible for a sentence reduction. USSG §1B1.10 comment. (n.1(A)(ii)) (defendant not eligible for reduction where another guideline provision prevents lowering of guideline range).

**IT IS, THEREFORE, ORDERED** that the defendant's motion is **DENIED**.

<sup>1</sup> The Court applied a comparable reduction from the low end of the range for substantial assistance to arrive at a sentence of 118 months. (Doc. No. 609: Order at 2).

The Clerk is directed to certify copies of this Order to the defendant, counsel for the defendant, the Community Defender, the United States Attorney, the United States Marshals Service, and the United States Probation Office.

Signed: May 24, 2012



Robert J. Conrad, Jr.  
Chief United States District Judge

